

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PENDLETON DIVISION

MARTHA LAURA AVILES-VALDEZ,  
an individual; CAROLYN MASON, an  
individual; and JUAN VALDEZ, an  
individual,

No. 2:16-CV-00332-SU

ORDER

Plaintiffs,

v.

UMATILLA COUNTY, a municipal  
corporation,

Defendant.

HERNÁNDEZ, District Judge:

Magistrate Judge Sullivan issued a Findings and Recommendation [73] on February 8, 2019 in which she recommends the Court deny Defendant's Motion for Summary Judgment [42] and dismiss Plaintiffs' state-law claims with prejudice. Defendant filed timely objections to the

Findings and Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Defendant filed timely objections to the Magistrate Judge's Findings and Recommendation. Def.'s Obj., ECF 78. In these objections, Defendant raised an issue that was not briefed before Judge Sullivan—whether Plaintiffs are barred from recovering damages that occurred after December 3, 2015. The Court declines to address this issue for the first time on review. *See Brown v. Roe*, 279 F.3d 742, 745–46 (9th Cir. 2002) (rejecting the Fourth Circuit's holding that a district court must consider new arguments raised for the first time in an objection to a magistrate judge's F&R); *United States v. Howell*, 231 F.3d 615, 622 (9th Cir. 2000) (district courts have discretion to consider new evidence raised for the first time in an objection to a magistrate judge's F&R); *Olmos v. Ryan*, No. CV–11–00344–PHX–GMS, 2013 WL 3199831, at \*8 (D. Ariz. June 24, 2013) (“Generally, a district court need not consider new arguments raised for the first time in objections to an R & R.”)

The Court has carefully considered the remaining objections and concludes they do not provide a basis to modify the recommendation. The Court has also reviewed the pertinent portions of the record *de novo* and finds no error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court adopts Magistrate Judge Sullivan's Findings and Recommendation [73]. Defendant's Motion for Summary Judgment [42] is DENIED. Plaintiffs' state-law claims are DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 11 day of June, 2019.

  
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MARCO A. HERNÁNDEZ  
United States District Judge